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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,278	06/27/2003	Erik W. Selberg	REALNET.196A	8513
72455 7590 01/24/2008 RealNetworks, INC. Graybeal Jackson Haley LLP 155 - 108th Ave NE Suite 350 Bellevue, WA 98004-5973			EXAMINER TRUONG, THANHNGA B	
			ART UNIT 2135	PAPER NUMBER
			MAIL DATE 01/24/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/608,278

Applicant(s)

SELBERG ET AL.

Examiner

Thanhnga B. Truong

Art Unit

2135

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-83 is/are pending in the application.
- 4a) Of the above claim(s) 1-67 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 68-83 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 June 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This action is responsive to the communication filed on October 29, 2007. Claims 1-83 are pending. Claims 1-67 are withdrawn by the applicant. At this time, claims 68-83 are rejected.

### *Election/Restrictions*

2. Applicant's election without traverse of **species 6** in the reply filed on October 29, 2007 is acknowledged.

Claims 1-67 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species 1, species 2, species 3, species 4, and species 5, there being no allowable generic or linking claim. Election was made **without traverse** in the reply filed on October 29, 2007.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 68-72, 74, 77-83 are rejected under 35 U.S.C. 102(e) as being anticipated by Spagna et al (US 6,587,837 B1).

a. Referring to claim 68:

i. Spagna teaches a method for delivery of digital content (**column 9, lines 52-57 of Spagna**), the method comprising:

(1) providing configurable rules based at least in part on user attributes (**column 12, lines 52-67 of Spagna**);

(2) defining a plurality of licenses for use of a content item (**column 4, lines 27-32; column 10, lines 28-33 of Spagna**);

(3) receiving a request for authorization to use the content item (**column 10, lines 28-33 of Spagna**);

(4) verifying whether at least one of the plurality of licenses authorizes a use the of the content item (**column 10, lines 28-33 of Spagna**);  
and

(5) providing information on how to qualify for a license if none of the plurality of licenses authorizes the use (**column 6, lines 35-39 of Spagna**).

b. Referring to claim 69:

i. Spagna further teaches:

(1) wherein user attributes comprise age (**column 11, lines 8-17 of Spagna**).

c. Referring to claim 70:

i. Spagna further teaches:

(1) wherein user attributes comprise residence (**column 11, lines 8-17 of Spagna**).

d. Referring to claim 71:

i. Spagna further teaches:

(1) wherein user attributes comprise payment method (**column 4, lines 22-26; column 11, lines 8-17 of Spagna**).

e. Referring to claim 72:

i. Spagna further teaches:

(1) wherein a license comprises at least one grant (**column 10, lines 28-33 of Spagna**).

f. Referring to claim 74:

i. Spagna further teaches:

(1) wherein verifying comprises comparing the licenses against the user attributes (**column 10, lines 28-33 of Spagna**).

g. Referring to claim 77:

i. Spagna further teaches:

(1) wherein the use is playback (**column 5, line 51 of Spagna**).

h. Referring to claim 78:

i. Spagna further teaches:

(1) wherein the use is copying to a compact disc (**column 53, lines 11-16 of Spagna**).

i. Referring to claim 79:

i. Spagna further teaches:

(1) wherein the use is copying to a digital video disc (**column 53, lines 11-16 of Spagna**).

j. Referring to claim 80:

i. Spagna further teaches:

(1) wherein the use is copying to a hard-drive (**column 53, lines 11-16 of Spagna**).

k. Referring to claim 81:

i. Spagna further teaches:

(1) wherein the use is downloading to a portable player (**column 9, lines 58-59 of Spagna**).

l. Referring to claim 82:

i. Spagna further teaches:

(1) wherein the rules are dynamically reconfigurable (**column 29, lines 47-50; column 31, lines 53-55; column 45, lines 22-29; column 52, lines 36-50 of Spagna**).

m. Referring to claim 83:

i. Spagna further teaches:

(1) wherein the licenses are dynamically reconfigurable  
(see Figure 5 and column 4, lines 26-32; column 39, lines 31-43 of Spagna).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 73, 75, and 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spagna et al (US 6,587,837 B1), and further in view of Eichstaedt et al (US 6,108,645).

a. Referring to claims 73, 75, 76:

i. Spagna teaches the claimed subject matter via the usage of licenses and rules, However Spagna is silent on the capability of using Boolean-based expressions with its rules. On the other hand, Eichstaedt teaches this limitation in **column 2, lines 10-18; column 8, lines 25-27 of Eichstaedt.**

iii. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to:

(1) have modified the invention of Spagna with the teaching of Eichstaedt to establish a secure, global distribution system for digital content that protects the rights of content owners (**column 2, lines 56-58 of Spagna**).

iv. The ordinary skilled person would have been motivated to:

(1) have modified the invention of Spagna with the teaching of Eichstaedt for the secure delivery and rights management of digital assets, such as print media, films, games, and music over global communications networks such as the Internet and the World Wide Web (**column 1, lines 55-58 of Spagna**).

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Downs et al (US 6,226,618 B1) discloses electronic content delivery system (see title), which also read on to limitations of claims 68-72, 74, 77-83 of the instant application.

b. Hurtado et al (US 6,418,421 B1) discloses multimedia player for an electronic content delivery system (see title), which also read on to limitations of claims 68-72, 74, 77-83 of the instant application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanhnga (Tanya) Truong whose telephone number is 571-272-3858.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kim Vu can be reached at 571-272-3859. The fax and phone numbers for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-2100.



TBT

January 19, 2008

THANHNGA TRUONG  
PRIMARY EXAMINER